

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**HENTZEN COATINGS, INC.,
Plaintiff,**

v.

Case No. 06C0568

**UTI UNITED STATES, INC., et al.,
Defendants.**

ORDER

_____Plaintiff Hentzen Coatings, Inc., brought this action against several defendants alleging negligence and violations of the Carmack Amendment, 49 U.S.C. § 14706, and centering on defendants' participation in the shipment of equipment purchased by plaintiff. Plaintiff filed an amended complaint on March 23, 2007, which named Atlantic Logistics Services ("ALS") as one of the defendants. To date, ALS has not appeared in this action in any manner.

Plaintiff has moved for default judgment against defendant ALS pursuant to Fed. R. Civ. P. 55.¹ However, plaintiff failed to request that the clerk enter default under Rule 55(a). Prior to obtaining a default judgment under either Federal Rule of Civil Procedure 55(b)(1) or Rule 55(b)(2), there must be an entry of default as provided by Rule 55(a). Elements of a default must be shown by means of an affidavit or by other competent proof. Fed. R. Civ. P. 55(a). Thus, I will deny plaintiff's motion for default judgment without prejudice.

¹ Plaintiff also moved for default judgment against defendant Charpentier Associates, Inc., but subsequently filed a stipulation voluntarily dismissing Charpentier from the action. Thus, the motion for default judgment as applied to Charpentier is moot.

Therefore,

IT IS ORDERED that plaintiff's motion for default judgment is **DENIED WITHOUT PREJUDICE.**

Dated at Milwaukee, Wisconsin this 10 day of March, 2008.

/s

LYNN ADELMAN
District Judge